



SFUND RECORDS CTR

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, Ca. 94105

AR0001

1 FEB 1991

Certified Mail No. P 918 447 174  
RETURN RECEIPT REQUESTED

NOTICE OF POTENTIAL LIABILITY AND EPA CONDUCT OF REMOVAL ACTION  
URGENT LEGAL MATTER - PROMPT REPLY NECESSARY  
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mr. John Benum  
1550 Valley View  
Carson City, Nevada 89701

Re: Mercury-Contaminated Mill Tailings Pile  
Lot Adjacent to Dayton Mini-Mart, North of U.S. Highway 50  
and West of Mini-Mart, Town of Dayton, County of Lyon,  
State of Nevada.

Dear Mr. Benum:

This letter notifies you of potential liability, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9607(a), as amended (CERCLA), with respect to the above referenced site. This letter also notifies you of potential removal activities at the site, which you may be asked to finance at a later date.

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced site. The mine tailings pile referenced above was sampled by EPA and we have determined that the pile contains high levels of mercury contamination. This mine tailings pile is located adjacent to an area frequented by nearby residents. The mercury concentrations present in this pile greatly exceed all regulatory and health-related levels of concern.

Due to the nature of the endangerment, your immediate action will be required. You must, therefore, notify the EPA within 7 (seven) days of your receipt of this Notice if you wish to perform the necessary actions listed below.

EPA has spent, and is considering spending additional public funds on actions to investigate and control such releases or threatened releases at the site. EPA is authorized to perform these actions pursuant to Section 104 of CERCLA.

Under Section 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6973 (RCRA), and other laws,

potentially liable parties may be obligated to implement response actions deemed necessary by EPA to protect human health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, and enforcement activities.

EPA has evaluated information in connection with the site, concerning persons who may be associated with it. Based on this information, EPA believes that you are a potentially responsible party with respect to this site. Potentially responsible parties (PRPs) under CERCLA include current and former owners and operators of the site as well as persons who arranged for disposal of hazardous substances found at the site, or persons who accepted hazardous substances for transport to the site. Specifically, EPA has determined that you are the legal owner of the site.

In accordance with CERCLA and other authorities, EPA already has undertaken certain actions and incurred certain costs in response to the conditions at the site. These response actions included a preliminary assessment to identify hazardous wastes present at the Site, and to assess the potential threats and conditions present on-site. EPA may expend additional funds for response activities at the site under the authority of CERCLA and other laws.

If you are already involved with discussions with State or local authorities, engaged in voluntary cleanup actions, or involved in a lawsuit regarding this site, you should continue such activities as appropriate. This letter is not intended to advise you or direct you to restrict or discontinue any such activities; however, you are advised to report the status of those discussions in your response to this letter, and to provide a copy of the response to any other parties involved in those discussions or actions.

#### YOUR OPPORTUNITY TO PERFORM THE REMOVAL

Before the EPA undertakes the necessary response actions to abate any releases of hazardous materials, pollutants, or contaminants at the site, you are now being afforded the opportunity to voluntarily perform this required work. If you decline this offer and public funds are expended, you as the responsible party may be held liable under Section 107 of CERCLA for the costs incurred by the EPA.

#### SITE RESPONSE ACTIVITIES

At present, EPA is planning to conduct the following activities regarding hazardous materials which are located at the site: EPA will fence and post the site to exclude and warn the public,

stabilize the site and/or remove the mercury-contaminated sediments. EPA will continue to perform analyses in order to fully characterize the contamination at the site.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. Section 9613(k), EPA will establish an administrative record file that will contain documents that form the basis for EPA's decision on the selection of a removal action for the site. The administrative record will be open to the public for inspection and comment. The administrative record will be located at a nearby public building to be determined at a later date.

AGENCY CONTACT

In your response to this letter, please indicate the appropriate name, address, and telephone number for further contact. Your response to this letter should be sent to:

U.S. Environmental Protection Agency  
On-Scene Coordinator, Robert Mandel  
Mail Code H-8-3  
75 Hawthorne Street  
San Francisco, CA 94105

Phone: (415) 744-2290  
FAX: (415) 744-1916

For any legal questions please contact:

Michael Hingerty  
Assistant Regional Counsel  
Office of Regional Counsel  
Phone: (415) 744-1315

If you or your attorney have any questions pertaining to this matter, please direct them to OSC Robert Mandel or Michael Hingerty, respectively, at the above address.

Sincerely,

  
Jerry Clifford  
Deputy Director of Superfund

cc: Brent Maier, EPA Emergency Response Enforcement  
Jolaine Johnson, Nevada Division of Environmental  
Protection